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## MARYLAND COMMISSIONER OF FINANCIAL REGULATION INDUSTRY ADVISORY REGULATORY GUIDANCE

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DECEMBER 27, 2021

### NOTICE TO SERVICERS: MARYLAND HOMEOWNER ASSISTANCE FUND NOW OPEN

**NOTE:** For a supplement to this guidance, see [Maryland's Homeowner Assistance Fund: FAQs for Mortgage Servicers](#) (corrected February 7, 2022), issued jointly by the Maryland Department of Housing and Community Development and the Office of the Commissioner of Financial Regulation.

The Maryland Department of Housing and Community Development (DHCD) recently launched the Maryland Homeowner Assistance Fund (HAF) to assist Maryland homeowners who have encountered financial difficulties during the COVID-19 pandemic. HAF assistance comes in the form of grants and deferred payment loans to aid homeowners in making delinquent mortgage payments and creating sustainable plans for mortgage loan repayment, thus enabling them to retain their homes. This program is intended as a last resort for those homeowners who are otherwise unable to enter into a sustainable payment plan under the loss mitigation options normally offered by their mortgage servicers.

The HAF program has begun accepting assistance applications from homeowners. The Commissioner views the HAF program as a supplemental, external loss mitigation option that is an integral part of the loss mitigation process under Maryland law and, therefore, all servicers, whether licensed or exempt from licensure, are expected to cooperate with borrowers seeking assistance through the HAF program to enable them to avoid foreclosure and retain their homes.

The program is not intended to supersede or replace loss mitigation offered by mortgage servicers; the program's funds are intended to serve as a final "backstop" for homeowners who may not have previously qualified for other loss mitigation options through their servicers, and to leverage and be supplementary to those loss mitigation options. Maryland Regulation [09.03.06.20](#) requires a servicer to make borrowers in default aware of loss mitigation options available to them, and to pursue loss mitigation when possible. As the HAF program is intended to be a program of last resort for a borrower, a servicer must not require a borrower to apply for assistance through the HAF program before offering the borrower other loss mitigation options.

The HAF program is intended to allow a significant number of Marylanders to retain their homes, and the value of this program to these Marylanders, to their communities, and to the mortgage holders who will avoid the losses associated with foreclosure, cannot be overstated. Therefore, the Commissioner expects that mortgage servicers will:

- Make defaulted Maryland borrowers who have been denied other loss mitigation aware of the HAF program, and of the fact that they can submit an [application](#) with DHCD;
- Reconsider any previous denials of loss mitigation, when appropriate, for borrowers who receive assistance through the HAF program; and
- To the greatest extent possible, delay the filing of foreclosure actions against Maryland homeowners, or the scheduling of foreclosure sales, so that borrowers have reasonable time to apply and be evaluated for assistance under the HAF program.

In implementing the foregoing, servicers should know that the Commissioner takes the position that the evaluation timing and dual tracking standards set forth in 12 CFR §1024.41 are considered applicable once a servicer receives notice that a borrower has applied for HAF. Servicers may consider fourteen days to be deemed a reasonable period of time for completion of a HAF application, and servicers must allow an additional reasonable period of time for a borrower to complete a loss mitigation application directly with them if HAF funds are approved contingent upon additional loss mitigation by the servicer.

The following are some actions that should be avoided as they are deemed to violate relevant Maryland laws and regulations:

1. Requiring a borrower to apply for HAF assistance before evaluating the borrower for other loss mitigation options;
2. Failing to reasonably and timely cooperate in the HAF application process after being notified by DHCD that a borrower has applied for assistance, unless the servicer received such notice 37 days or less before a scheduled foreclosure sale;
3. Failing to notify a borrower of the HAF program when notifying the borrower of a denial for loss mitigation;
4. Failing to wait fourteen days after notifying the borrower of a denial for loss mitigation before taking further steps in the foreclosure process;
5. Refusing to consider a new loss mitigation application if a borrower was previously denied loss mitigation but has subsequently been approved for HAF funds;
6. Filing a notice of intent to foreclose or an order to docket, or proceeding with a foreclosure sale if notified by DHCD more than 37 days before a foreclosure sale that the borrower has applied for HAF assistance (see below for additional information);
7. Refusing to accept HAF funds on behalf of a borrower if the servicer would otherwise accept such funds directly from the borrower.

Additionally, pursuant to Maryland's Mortgage Fraud Protection Act (Md. Code Ann., Real Property §7-401 *et seq.*), any servicer, whether licensed or exempt from licensure, that refuses to cooperate in the HAF application process after DHCD notifies the servicer that the borrower applied for HAF funds, or refuses to accept HAF funds on behalf of the borrower to the extent such funds would have been accepted directly from the borrower, will be deemed to have knowingly made a misstatement, misrepresentation, or omission to the extent such servicer subsequently: (i) issues statements of the amount of the borrower's

arrearage or the amount needed to cure the borrower's default; or (ii) files a final loss mitigation affidavit in the borrower's foreclosure action stating that the borrower did not qualify for loss mitigation.

For questions about this advisory, please contact Jedd Bellman, Assistant Commissioner, at 410-230-6390, or by e-mail at [jedd.bellman@maryland.gov](mailto:jedd.bellman@maryland.gov).

Please note that the HAF program is solely administered by the State of Maryland through DHCD. The Office of the Commissioner of Financial Regulation is not affiliated with the HAF program and is unable to provide any additional information or guidance regarding the program. Questions regarding the program should be directed to DHCD [here](#). You may also find information regarding HAF funds on the U.S. Department of the Treasury's website [here](#).

*The Office of the Commissioner of Financial Regulation, a division of the Maryland Department of Labor, is Maryland's consumer financial protection agency and financial services regulator. For more information, please visit our website at [www.labor.maryland.gov/finance](http://www.labor.maryland.gov/finance).*



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